IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

FRIDAY, THE 24TH NOVEMBER 2006 / 3RD AGRAHAYANA 1928

WP(C).No. 31193 of 2006(L)

E.P.184/04 IN OS.289/2001 of PRL.SUB COURT,TRIVANDRUM

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PETITIONER:

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1. M. ABDUL RASHEED, AGED 58,
S/O. MUHAMMED KANNOM, AYSHA MANZIL, PARATHITHOPPU,
BALARAMAPURAM, THIRUVANANTHAPURAM.

2. R. RASHEEDA, W/O. ABDUL RASHEED,
AYSHA MANZIL, PARATHITHOPPU, BALARAMAPURAM,
THIRUVANANTHAPURAM.

BY ADV. SRI.VARGHESE PREM
SRI.A.K.ANIKUTTAN

RESPONDENTS:

THE CATHOLIC SYRIAN BANK,
REPRESENTED BY ITS MANAGER, NEMOM BRANCH,
THIRUVANANTHAPURAM.

BY ADV.SRI.B.S.KRISHNAN, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN, J

W.P(C).No.31193 OF 2006

Dated this the 24th day of November, 2006

JUDGMENT

Heard counsel for the petitioner and Adv.Sri.B.S.Krishnan for the respondent.

2. The writ petitioners/judgment debtors, who did not contest the suit, seek a direction to the executing court to consider and dispose of Exts.P1 to P4 filed during the course of execution. Learned counsel for the Bank submits that the sale has already been confirmed.

3. Having heard counsel for parties, I do not find any ground to interfere with the impugned proceedings on its merits. However, since the sale has been confirmed in favour of the decree holder Bank, stated to be for an amount lesser than the decree amount, it is urged by the judgment debtors, through counsel, that they may be permitted to wipe off the entire decree debt and avert loss of the property.

This writ petition is hence disposed of directing that if the entire decree amount, including costs towards execution proceedings, is wiped off by the judgment debtors in four equal monthly instalments payable on or before the 10th of every month commencing from December, 2006, the impugned sale will stand set aside. It is clarified that no extension of time would be granted for remitting any of the instalments and further that default in any of the instalments as aforesaid will result in this judgment being recalled automatically.

THOTTATHIL B.RADHAKRISHNAN
Judge

kkb.